

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

REBECCA CHUNG, Personal )  
Representative of the Estate of JOSE )  
CHAIR ZERMENO GARCIA, on behalf of )  
his parents, ARMANDO ZERMENO )  
ROSAS, and VERONICA GARCIA- )  
PEREZ, )

Plaintiff, )

v. )

NATHAN ANDERSON, deceased, )  
CHRISTOPHER McELLIGOTT, )  
individually and in his official capacity, )  
JOHN DOE, individually and in their )  
respective capacities as officers of the )  
Omaha, Nebraska Police Department, )  
THOMAS WARREN, individually and in )  
his capacity as Police Chief of the )  
Omaha, Nebraska Police Department, )  
OMAHA POLICE DEPARTMENT, and )  
CITY OF OMAHA, Nebraska, )

Defendants. )

CASE NO. 8:06CV406

ORDER

This matter is before the Court on the Defendants' Motion for Summary Judgment (Filing No. 27). The Defendants have submitted briefs (Filing Nos. 29 and 33) and an Index of Evidence (Filing No. 31) in support of the Motion. The Plaintiff has filed a brief (Filing No. 32) in opposition to the Motion, but no evidence.

First, the Plaintiff contends that the Court's progression order of March 16, 2007 (Filing No. 26), mandated that any motion for summary judgment be filed not later than May 21, 2007, and that the Defendants' Motion for Summary Judgment and supporting

brief were not filed until June 1, 2007. The progression order in fact mandates that any motion for summary judgment be filed not later than June 1, 2007. The Defendants' motion was timely.

Second, the Plaintiff contends that the Defendants did not respond to the Plaintiff's discovery requests in a timely manner, and that documents requested by Plaintiff's counsel were not furnished by Defendants' counsel until June 8, 2007. The Plaintiff suggests that a "default judgment" in her favor is in order. The Defendants acknowledge a delay in the production of documents, and do not oppose an extension of time for the Plaintiff to complete any depositions and respond to the Motion for Summary Judgment. Although the Plaintiff filed no motion to compel discovery and has not requested any extension of time to respond to the Motion for Summary Judgment, I find that such extensions of time are in the interests of justice. I will grant the Plaintiff until July 20, 2007, to complete any depositions for use in the Plaintiff's response to the Motion for Summary Judgment; and I will grant Plaintiff until July 30, 2007, to respond to that Motion. The Plaintiff's response must comply with NECivR 56 (b)(1). Failure to comply with that local rule likely will result in the granting of the Motion for Summary Judgment.

Third, counsel for the Plaintiff has notified the Court that a new personal representative has been appointed for the Estate of Jose Chair Zermeno Garcia. (Filing No. 5). Accordingly, the Clerk will correct the caption to remove the name of Ioana Navarrete Pellicer and substitute the name of Rebecca Chung

IT IS ORDERED:

1. Plaintiff Rebecca Chung shall have an extension of time until July 20, 2007, to complete any depositions for use in connection with the Defendants' motion for summary judgment;
2. Plaintiff Rebecca Chung shall have an extension of time until July 30, 2007, to file any brief and index of evidence in response to the Defendant's Motion for Summary Judgment; and
3. The Clerk will correct the caption to remove the name of Ioana Navarrete Pellicer and substitute the name of Rebecca Chung .

DATED this 5<sup>th</sup> day of July, 2007.

BY THE COURT:

s/Laurie Smith Camp  
United States District Judge